

MAR 16 2010

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JOHN F. CORCORAN, CLERK
BY: *J. C. Turk*
DEPUTY CLERK

UNITED STATES OF AMERICA

Case No. 7:04-cr-00066-1

v.

§ 2255 ORDER

MARCUS LAMONT SUMBLIN,
Petitioner.

By: Hon. James C. Turk
Senior United States District Judge

For the reasons stated in the accompanying memorandum opinion, it is hereby

ORDERED

that petitioner's petition for a writ of audita querela (no. 172) is **CONSTRUED** as a motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. § 2255; the Clerk shall **OPEN** a new action for this § 2255 motion; this new § 2255 action is **DISMISSED** without prejudice as a successive § 2255 motion; a Certificate of Appealability is **DENIED**; and the case is **STRICKEN** from the active docket of the court.

The Clerk is directed to send copies of this order and the accompanying memorandum opinion to petitioner and to counsel of record for the United States.

ENTER: This 16th day of March, 2010.

James C. Turk

Senior United States District Judge